UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,864	02/26/2002	Joel E. Cordsmeyer	BELL-0117/01115	4963

38952 7590 10/20/2005	EXAMINER
WOODCOCK WASHBURN LLP	BENGZON, GREG C

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

ART UNIT	PAPER NUMBER
2144	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
	10/082,864	CORDSMEYER ET AL.
Office Action Summary	Examiner	Art Unit
	Greg Bengzon	2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *26 February 2002*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *14-19* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *14-19* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 7-05)   **Office Action Summary**   Part of Paper No./Mail Date 20050912

DETAILED ACTION

This application has been examined. Claims 14-19 are pending.

Priority

The effective date of the claims described in this application is February 26,

2002.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-19 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

The modifier term "about " in claim 14 is a relative term which renders the claim

indefinite. The limitations include "about 45,000 (rows)", "about 1.5 kilobytes", "about 5

gigabytes", "about once per hours", and "about 10 days". The Applicant specification

does not provide a standard for ascertaining the requisite degree, and one of ordinary

skill in the art would not be reasonably apprised of the scope of the invention.

Furthermore the preamble in Claim 14 is describing a procedure, while the body

of the said claim is describing an article of manufacture further supported by functional

descriptive language.   Claim 14 does not reciting any active positive steps regarding

said procedure.   Attempts to claim a process without setting forth any steps involved in

the process generally raises an issue of indefiniteness under 35 U.S.C. 112, second

paragraph.

Moreover, Claim 14 recites a limitation for predetermining a number of rows

based on several factors. The Examiner notes that it is unclear how the said factors are

used to determine the number of rows for deletion, as the Applicant provides no basis

for using said factors.

Claims 15-19 are rejected on the basis of their dependency on Claim 14.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Groath et al. (US Patent 6571285), hereinafter referred to as Groath, further in view of

Dempsey et al. (US Patent 6356917), hereinafter referred to as Dempsey.

Groath disclosed (re. Claim 14) in a network environment where messages

relating to faults that occur in the network over time are stored as rows in a database

having a finite amount of memory allocated for storing the messages, a fault message

purge procedure comprising; executable computer code residing in a memory that

expunges a predetermined number of the rows in the database when executed, (

Groath – Column 60 Lines 15-25) (re. Claim 15) executable computer code residing in

a memory that when executed, maintains a log file of all the messages saved to and

expunged from the database. (Groath – Column 61 Lines 10-15) (re. Claim 18)

wherein the network comprises a telecommunications network (Groath – Column 13

Lines 10-15) ; (re. Claim 19)   wherein the memory in which the executable computer

code resides comprises a fault database. (Groath – Column 13 Lines 10-15)

Groath did not disclose (re. Claim 14) the predetermined number of rows to be

expunged comprising a function of a rate at which the messages are stored in the

database, a size of the rows in the database, the finite amount of memory allocated for

storing the messages in the database,   a period at which the computer code is

executed, and a period of time for which information relating to the faults is to be

retained in the database,   the predetermined number of the rows to be expunged being

about 45,000 where the rate at which the messages are stored in the database is about

15 per second, the size of the rows in the database is about 1.5 kilobytes, the finite

amount of memory allocated for storing the messages in the databases is about 5

gigabytes, the period at which the computer code is executed is about once per hour,

and the period of time for which information relating to the faults is to be retained is

about 10 days.

Groath did not disclose (re. Claim 16)   additional executable computer code

residing in a memory that, when executed, monitors the expunging of the messages

from the database when the other executable computer code is executed to ensure that

the expunging of the messages from the database functions properly; (re. Claim 17)

additional executable computer code further comprises instructions to re-execute the

other executable computer code if the expunging of the messages-from the database

does not function properly.

The Examiner notes that the Claims are describing the results of the purge

procedure rather than the steps required by the purge procedure. The limitation for

predetermining the number of rows for deletion may be arbitrarily chosen to facilitate

efficient database grooming and free-space maintenance. It would be well known in the

art that a database delete or purge command (such as an SQL Delete command, for

example) may specify an arbitrary number of rows at any one time. Viewed another

way, the repetition of the delete process, as written in a script, may be specified any

number of times, as is well known in any automated process.   The determination of the

number of rows for deletion would necessarily be a function of the free-space threshold

level (or high watermark) for the database as required by Groath order for proper

database grooming and free-space management to occur. Thus, the rate at which the

delete process occurs is arbitrary, and furthermore, does not bear any relevance to the

functionality of a deletion process.

Dempsey disclosed (re. Claim 14) the predetermined number of rows to be

expunged comprising a function of a rate at which the messages are stored in the

database, (Dempsey - Column 6 Lines 20-34) a size of the rows in the database, the

finite amount of memory allocated for storing the messages in the database, a period at

which the computer code is executed, and a period of time for which information relating

to the faults is to be retained in the database,   the predetermined number of the rows to

be expunged being about 45,000   where the rate at which the messages are stored in

the database is about 15 per second, the size of the rows in the database is about 1.5

kilobytes, the finite amount of memory allocated for storing the messages in the

databases is about 5 gigabytes, the period at which the computer code is executed is

about once per hour, and the period of time for which information relating to the faults is

to be retained is about 10 days (Dempsey - Column 6 Lines 20-34)

Dempsey disclosed (re. Claim 16)   additional executable computer code

residing in a memory that, when executed, monitors the expunging of the messages

from the database when the other executable computer code is executed to ensure that

the expunging of the messages from the database functions properly. (Dempsey –

Figures 3 thru 4, Column 5 Lines 30-35) ; (re. Claim 17) wherein the additional

executable computer code further comprises instructions to re-execute the other

executable computer code if the expunging of the messages-from the database does

not function properly. (Dempsey – figures 3 thru 4, Column 5 Lines 30-35)

Groath and Dempsey are analogous art because they present concepts and

practices regarding database maintenance. At the time of the invention it would have

been obvious to a person of ordinary skill in the art to combine the teachings of

Dempsey regarding monitoring database jobs into the methods and system disclosed

by NavisXtend. The motivation for said combination would have been, as Dempsey

suggests (Dempsey – Column 6 Lines 25-30), to allow the rate at which the actions (i.e.

database jobs) occur to be actively controlled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

NavisXtend Statistics Server Users Guide (Lucent Technologies, Revision 04,

November 1999), hereinafter referred to as NavisXtend, further in view of Dempsey et

al. (US Patent 6356917), hereinafter referred to as Dempsey.

NavisXtend disclosed (re. Claim 14) in a network environment where messages

relating to faults that occur in the network over time are stored as rows in a database

having a finite amount of memory allocated for storing the messages, a fault message

purge procedure comprising; executable computer code residing in a memory that

expunges a number of the rows in the database when executed, (NavisXtend –

Chapter 1, Page 1-15, 1-17, Chapter 4, Page 4-24) the number of rows to be expunged

comprising a function of a rate at which the messages are stored in the database, a

size of the rows in the database, the finite amount of memory allocated for storing the

messages in the database, (NavisXtend – Table 4-4, Page 4-25) a period at which the

computer code is executed, and a period of time for which information relating to the

faults is to be retained in the database,   the predetermined number of the rows to be

expunged being about 45,000 (NavisXtend – Page 4-26) where the rate at which the

messages are stored in the database is about 15 per second, the size of the rows in the

database is about 1.5 kilobytes, the finite amount of memory allocated for storing the

messages in the databases is about 5 gigabytes (NavisXtend – Page 4-25), the period

at which the computer code is executed is about once per hour, and the period of time

for which information relating to the faults is to be retained is about 10 days (

NavisXtend – Page 4-26, Page 4-28) ; (re. Claim 15) executable computer code

residing in a memory that when executed, maintains a log file of all the messages saved

to and expunged from the database. (NavisXtend – Log Files, Page 1-17) (re. Claim

18) wherein the network comprises a telecommunications network (NavisXtend –

Page 1-2) ; (re. Claim 19) wherein the memory in which the executable computer code

resides comprises a fault database. (NavisXtend – Page 4-25, Page 4-26)

The Examiner notes that the Claims are describing the results of the purge

procedure rather than the steps required by the purge procedure. The limitation for

predetermining the number of rows for deletion may be arbitrarily chosen to facilitate

efficient database grooming and free-space maintenance. It would be well known in the

art that a database delete or purge command (such as an SQL Delete command, for

example) may specify an arbitrary number of rows at any one time. Viewed another

way, the repetition of the delete process, as written in a script, may be specified any

number of times, as is well known in any automated process. The determination of the

number of rows for deletion would necessarily be a function of the threshold level (or

high watermark) for the database as required by NavisXtend in Table 4-4 in order for

proper database grooming and free-space management to occur. Thus, the rate at

which the delete process occurs is arbitrary, and furthermore, does not bear any

relevance to the functionality of a deletion process.

NavisXtend did not disclose (re. Claim 14) executable computer code residing in a memory that expunges a <u>predetermined</u> number of the rows in the database when executed ; (re. Claim 16)   additional executable computer code residing in a memory that, when executed, monitors the expunging of the messages from the database when the other executable computer code is executed to ensure that the expunging of the messages from the database functions properly; (re. Claim 17) additional executable computer code further comprises instructions to re-execute the other executable computer code if the expunging of the messages-from the database does not function properly.

Dempsey disclosed (re. Claim 14) executable computer code residing in a memory that expunges a <u>predetermined</u> number of the rows in the database when executed (Dempsey – Column 8 Lines 20-30) ; (re. Claim 16)   additional executable computer code residing in a memory that, when executed, monitors the expunging of the messages from the database when the other executable computer code is executed to ensure that the expunging of the messages from the database functions properly. (Dempsey – Figures 3 thru 4, Column 5 Lines 30-35) ; (re. Claim 17) wherein the additional executable computer code further comprises instructions to re-execute the other executable computer code if the expunging of the messages-from the database does not function properly. (Dempsey – figures 3 thru 4, Column 5 Lines 30-35)

NavisXtend and Dempsey are analogous art because they present concepts and

practices regarding database maintenance. At the time of the invention it would have

been obvious to a person of ordinary skill in the art to combine the teachings of

Dempsey regarding monitoring database jobs into the methods and system disclosed

by NavisXtend. The motivation for said combination would have been, as Dempsey

suggests (Dempsey – Column 6 Lines 25-30), to allow the rate at which the actions (i.e.

database jobs) occur to be actively controlled.

Response to Arguments

Applicant's arguments filed 07/27/2005 have been considered but are moot in

view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100